

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

JESSIE MAE DAVIS,

Plaintiff,

v.

**AMERICAN INTERNATIONAL GROUP, INC.;
et al.,**

Defendants.

**CIVIL ACTION NO. 3:05-cv-00995-
MHT-CSC**

**SUPPLEMENT TO DEFENDANTS' OPPOSITION TO PLAINTIFF'S MOTION TO
REMAND**

COME NOW Defendants American General Financial Services of Alabama, Inc. ("American General"); Merit Life Insurance Company; and Yosemite Insurance Company (hereinafter collectively referred to as "Defendants"), by and through their undersigned counsel, appearing specially so as to preserve any and all defenses available under Rule 12 of the Federal Rules of Civil Procedure and specifically preserving the right to seek arbitration pursuant to the Federal Arbitration Act, 9 U.S.C. §§ 1, *et seq.*, and hereby provide the following Supplement to Defendants' Opposition to Plaintiff's Motion to Remand.

Plaintiff commenced the present action on September 8, 2005 by filing a complaint in the Circuit Court of Macon County, Alabama. On or about October 17, 2005, Defendants removed the present action to this Court on diversity and federal question jurisdiction grounds under 28 U.S.C. § 1331, 1332, and 1441. On or about November 16, 2005, Plaintiff filed a Motion to Remand, arguing against the existence of diversity and/or federal question jurisdiction. On December 5, 2005, Defendants filed their Opposition to Plaintiff's Motion to Remand. Plaintiff's Motion to Remand remains pending before this Court.

Significantly on January 24, 2006, in another matter involving virtually identical claims against the Defendants, American General Finance, Inc. v. Calvin Quarles, Jr. and Elsie Quarles, Case No. CV-04-380 (Circuit Court of Lee County, Ala. January 24, 2006)(attached hereto as Exhibit "A"), the Honorable Judge John V. Denson, II granted the Counter-Defendants' Motion for Summary Judgment as to all counterclaims asserted by the Counter-Plaintiffs. In doing so, Judge Denson found that the Counter-Plaintiffs' claims related to the purchase of credit insurance and the consolidation of prior debt were both barred by the applicable statute of limitations and substantively meritless. Defendants respectfully request that this Court consider the ruling of Judge Denson as persuasive authority when assessing the fraudulent joinder of the Non-Diverse Defendants in the present action.

WHEREFORE, Defendants respectfully request that this Honorable Court deny Plaintiff's Motion to Remand.

Respectfully submitted,

/s/ Matthew T. Mitchell

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CERTIFICATE OF SERVICE

I hereby certify that on February 1, 2006, I electronically filed the foregoing Supplement to Defendants' Opposition to Plaintiff's Motion to Remand with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following: Jere L. Beasley, Thomas J. Methvin, C. Lance Gould, Thomas Julian Butler, Matthew T. Mitchell, Robert H. Rutherford, Jeffrey M. Grantham, and John Thomas Aquina Malatesta.

/s/ Matthew T. Mitchell
OF COUNSEL